

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JERRY LEON DEES, JR.,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.:
v.)	2:07-cv-00306-MHT-CSC
)	
HYUNDAI MOTOR MANUFACTURING)	
ALABAMA, LLC, and HYUNDAI MOTOR)	
AMERICA, INC.,)	
)	
Defendants.)	

**DEFENDANTS' MOTION TO EXTEND DEADLINES
AND TO AMEND SCHEDULING ORDER**

COME NOW Defendants Hyundai Motor Manufacturing Alabama, LLC (“HMMA”) and Hyundai Motor America, Inc. (“HMA”) (collectively “Defendants”) and move this Honorable Court to extend amend the existing Uniform Scheduling Order (Doc. 19) and, more specifically, to grant an additional twenty-two (22) days for the parties to conclude depositions and for Defendants to complete and file dispositive motions. In support of this motion, Defendants state as follows:

1. The Uniform Scheduling Order in this case was filed on May 25, 2007, shortly after the Report of Parties Planning Meeting (Doc. 18) was filed on May 23, 2007. The Uniform Scheduling Order sets forth a dispositive motion deadline of November 22, 2007, which is Thanksgiving Day.

2. Magistrate Charles S. Coody previously issued a ruling regarding the sequence of depositions that required the depositions of three of Defendants’ witnesses occur *before*

Defendants would be allowed to take Plaintiff's deposition. At this time, although the parties appear to have reached tentative dates for Defendants' three witnesses, these depositions have not been taken and Defendants are unable to depose Plaintiff. The earliest date Plaintiff has offered for his deposition is November 20, 2007, only *two days* prior to the Thanksgiving Day dispositive motion deadline. (See, fax correspondence from Plaintiff's counsel dated October 19, 2007, attached as **Exhibit A**.) Due to Magistrate Coody's discovery ruling, Plaintiff's deposition was not taken as previously noticed by Defendants and Defendants are not in a position to notice Plaintiff's depositions for an earlier date given that Plaintiff's have not taken Defendants' witnesses depositions.

3. The parties have engaged in significant dialogue concerning the scheduling of depositions. (See, correspondence between counsel attached as **Exhibit B**.) Through no fault of their own, Defendants have been unable to take Plaintiff's deposition in order to prepare a motion for summary judgment or other dispositive motion.

4. As such, even assuming that Plaintiff concludes the depositions necessary prior to Defendants having the opportunity to depose Plaintiff, and assuming that the depositions are in fact completed, it will be a near impossibility and an extreme hardship for counsel for Defendants to conclude the necessary depositions, obtain the deposition transcripts, and prepare and file a dispositive motion in a timely fashion.

5. Defendants would therefore request that an amended scheduling order allowing more time to conclude depositions and file dispositive motions be granted. A proposed Order is attached hereto as **Exhibit C** in Adobe Acrobat PDF format. An additional electronic copy in

Microsoft Word format will be transmitted to the Court at propord_thompson@almd.uscourts.gov upon the filing of this motion, as instructed in the underlying Uniform Scheduling Order.

6. The practical impact of the proposed Amended Scheduling Order is minimal. The proposed changes merely results in a delay in the dispositive motion deadline to December 14, 2007, a twenty-two (22) day delay. The remaining deadlines going forward remain unchanged.

7. Counsel for Defendants have timely consulted with counsel for Plaintiff with respect to amendment by consent. Despite e-mails dated October 22, 2007, October 23, 2007, and October 24, 2007, Plaintiff's counsel have failed to respond at all with respect to their position concerning extended deadlines or an amended scheduling order. (See, e-mail correspondence attached as **Exhibit D**.) Regardless, such an amendment is appropriate and necessary under the circumstances.

WHEREFORE, premises considered, Defendants Hyundai Motor Manufacturing Alabama, LLC, and Hyundai Motor America, Inc., respectfully request that this Court enter an Amended Scheduling Order extending the existing deadlines to allow the parties adequate time to conclude depositions and file dispositive motions.

Respectfully submitted this the 25th day of October, 2007.

/s/ T. Scott Kelly
J. Trent Scofield (SCO-024)
T. Scott Kelly (KEL-053)
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
One Federal Place, Suite 1000
1819 Fifth Avenue North
Birmingham, AL 35203-2118
Tel.: (205) 328-1900
Fax: (205) 328-6000

E-mail: trent.scofield@odnss.com
E-mail: scott.kelly@odnss.com

Matthew K. Johnson
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
P.O. Box 2757
Greenville, SC 29602
Tel.: (864) 271-1300
Fax: (864) 235-8806
E-mail: matthew.johnson@odnss.com

Attorneys for Defendants Hyundai Motor
Manufacturing Alabama, LLC and
Hyundai Motor America, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of October, 2007, I electronically filed the foregoing
Motion to Extend Deadlines and to Amend Scheduling Order with the Clerk of the Court using
the CM/ECF system which will send notification of such filing to the following: W. Perry Hall,
Vincent F. Kilborn, III, David Allen McDonald, Jeffrey R. Sport, J. Trent Scofield, and Matthew
K. Johnson.

/s/ T. Scott Kelly
J. Trent Scofield (SCO-024)
T. Scott Kelly (KEL-053)
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
One Federal Place, Suite 1000
1819 Fifth Avenue North
Birmingham, AL 35203-2118
Tel.: (205) 328-1900
E-mail: trent.scofield@odnss.com
E-mail: scott.kelly@odnss.com

5280152.1

EXHIBIT A

Jerry Leon Dees, Jr., Plaintiff, vs. Hyundai Motor Manufacturing Alabama, LLC, and Hyundai Motor America, Inc., Defendants

Civil Action No. 2:07-cv-00306-MHT-CSC

**DEFENDANTS' MOTION TO EXTEND DEADLINES
AND TO AMEND SCHEDULING ORDER**

KILBORN, ROEBUCK & McDONALD

POST OFFICE BOX 66710
MOBILE, AL 36660
Phone: 251-479-9010
Fax: 251-479-6747

FAX TRANSMISSION COVER SHEET

Date: August 31, 2007
To: Matt Johnson, Esq.
864-235-8806
Re: Dees v. Hyundai Motor Manufacturing Alabama, LLC et al.

Sender: Jeff Sport

YOU SHOULD RECEIVE 2 PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO
NOT RECEIVE ALL THE PAGES, PLEASE CALL 251-479-9010.

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VINCENT F. KILBORN, III

M. LLOYD ROEBUCK

DAVID A. MCDONALD

W. PERRY HALL

JEFFREY R. SPORT

October 19, 2007

Via Fax and U.S. Mail

Matthew K. Johnson, Esquire
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
P.O. Box 2757
Greenville, SC 29602

Re: *Dees v. Hyundai Motor Manufacturing Alabama, LLC, et al.*

Dear Matt:

This is in response to your e-mailed correspondence of this date regarding scheduling of depositions and your objections to our 30(b)(6) deposition topics and 30(b)(5) document requests.

As I understand it, we are confirmed for November 1 for Wendy Warner, followed by HMMA's 30(b)(6) representative. Also, we accept the date of November 9 for the HMA 30(b)(6) deposition. I will re-issue a corrected notice. Also, we can tender Mr. Dees for deposition on Tuesday, November 20. We would immediately like to follow his deposition with the five additional depositions that we have already noticed.

With regard to your objections regarding the 30(b)(6) deposition topics and 30(b)(5) document requests, we strongly disagree with each and every one of your objections. These topics are entirely relevant and, per Judge Thompson's previous order, are due to be discovered. Our topics go directly to the alter ego and mere instrumentality allegations, and the documents requested are relevant to that issue.

With respect to the document requests you do not object to (if any), please forward those documents to us as soon as possible so that we may prepare for the deposition.

With best regards, I remain

Very truly yours,

A handwritten signature in black ink, appearing to read "JEFFREY R. SPORT".

JRS/jrs
w/ enc.

EXHIBIT B

Jerry Leon Dees, Jr., Plaintiff, vs. Hyundai Motor Manufacturing Alabama, LLC, and Hyundai Motor America, Inc., Defendants

Civil Action No. 2:07-cv-00306-MHT-CSC

**DEFENDANTS' MOTION TO EXTEND DEADLINES
AND TO AMEND SCHEDULING ORDER**

Johnson, Matthew K.

From: Scofield, J. Trent
Sent: Wednesday, October 03, 2007 7:15 PM
To: 'Jeffrey Sport'; Kelly, T. Scott.; Johnson, Matthew K.
Cc: 'Perry Hall'; 'David A McDonald'; 'Vince Kilborn'
Subject: HMMA / Dees: Deposition Correspondence

Jeff:

We are attempting to identify corporate representative(s) to testify in response to Plaintiff's 30(b)(6) deposition notices. I have attached the notices, along with the objections served related to them. Please review the objections, along with Defendant's proposed designations, and let us know Plaintiff's position regarding the same.

A conference call will be the most efficient manner to handle these issues so that we can move forward in a timely manner without undue delay or expense for either side. Let me know your schedule and I will see if I can set it up.

Thanks -- Trent

Johnson, Matthew K.

From: Scofield, J. Trent
Sent: Friday, October 05, 2007 11:36 AM
To: Scofield, J. Trent; 'Jeffrey Sport'; Kelly, T. Scott.; Johnson, Matthew K.
Cc: 'Perry Hall'; 'David A McDonald'; 'Vince Kilborn'
Subject: RE: HMMA / Dees: Deposition Correspondence

Jeff:

I sent you this email on Wednesday evening and plaintiff's response appears to be Amended but virtually identical deposition notices. You have completely ignored Defendants' objections, as well as my request to conference regarding these issues.

We wish to cooperate with you but expect that you will at least attempt to do the same. Please be advised that, at this moment and under these notices, we cannot commit to:

1. Designating an HMMA representative in Los Angeles on Oct. 10. Once the notice issues are resolved, we will make an HMMA corporate representative available in Montgomery.
2. Designating an HMA representative in Los Angeles on Oct. 11. Once the notice issues are resolved, we will make an HMA representative available at or convenient to its corporate headquarters location in Fountain Valley, CA.

We are in the process of determining Wendy Warner's availability for deposition on Oct. 18 in Montgomery and will promptly advise if that date can be confirmed. If it cannot, we will provide proximate alternate dates for her deposition.

If you are unwilling to conference, then please so state, so that our client may seek necessary protection from the Court.

Trent

-----Original Message-----

From: Scofield, J. Trent
Sent: Wednesday, October 03, 2007 6:15 PM
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Thanks -- Trent

Johnson, Matthew K.

From: Perry Hall [wph@krmlaw.us]
Sent: Friday, October 05, 2007 11:52 AM
To: Scofield, J. Trent; Jeffrey Sport; Kelly, T. Scott.; Johnson, Matthew K.
Cc: David A McDonald; Vince Kilborn
Subject: Re: HMMA / Dees: Deposition Correspondence

Trent,

Both Jeff and Vince are out of the country until early next week (and have been since last week). I don't know the history of discovery discussions to this point so I can't adequately confer to try to resolve all objections. I amended the deposition notices after we hadn't heard back from your side on the proposed dates (in the notices) offered by Jeff in a letter last Friday.

Based on the above, please don't assume that we are unwilling to conference. I'm sure we'll be back in touch with you sometime next week concerning the subject of your 2 recent emails.

Thanks,
Perry Hall

----- Original Message -----

From: Scofield, J. Trent
To: Scofield, J. Trent ; Jeffrey Sport ; Kelly, T. Scott. ; Johnson, Matthew K.
Cc: Perry Hall ; David A McDonald ; Vince Kilborn
Sent: Friday, October 05, 2007 10:35 AM
Subject: RE: HMMA / Dees: Deposition Correspondence

Jeff:

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Thanks -- Trent

Johnson, Matthew K.

From: Scofield, J. Trent
Sent: Friday, October 05, 2007 11:57 AM
To: 'Perry Hall'; 'Jeffrey Sport'; Kelly, T. Scott.; Johnson, Matthew K.
Cc: 'David A McDonald'; 'Vince Kilborn'
Subject: RE: HMMA / Dees: Deposition Correspondence

Perry:

Thank you for your prompt response.

Based on your email, I assume you will agree to withdraw the dates on the amended 30(b)(6) notices: October 10 and 11. Please confirm. Otherwise, you are putting us in a tough spot.

Trent

-----Original Message-----

From: Perry Hall [mailto:wph@krmlaw.us]
Sent: Friday, October 05, 2007 10:52 AM
To: Scofield, J. Trent; Jeffrey Sport; Kelly, T. Scott.; Johnson, Matthew K.
Cc: David A McDonald; Vince Kilborn
Subject: Re: HMMA / Dees: Deposition Correspondence

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Thanks -- Trent

Johnson, Matthew K.

From: Scofield, J. Trent
Sent: Monday, October 08, 2007 11:33 AM
To: 'wph@krmlaw.us'; Kelly, T. Scott.; Johnson, Matthew K.
Cc: 'jeff.sport@sportlaw.us'; 'dam@krmlaw.com'; 'chopperchief@aol.com'
Subject: RE: HMMA / Dees: Deposition Correspondence

Perry:

Thanks for your message. We are in the process of attempting to confirm Wendy Warner for Oct. 18. The 30(b)(6) depositions require attention, so please advise when we can discuss.

Trent

-----Original Message-----

From: wph@krmlaw.us [mailto:wph@krmlaw.us]
Sent: Monday, October 08, 2007 10:22 AM
To: Scofield, J. Trent
Cc: jeff.sport@sportlaw.us; dam@krmlaw.com; chopperchief@aol.com
Subject: RE: HMMA / Dees: Deposition Correspondence

Trent, we'll work toward a new date for the California 30b6 deposition. We don't plan to proceed with that deposition this week based on issues raised in prior correspondence and logistics.

Perry

-----Original Message-----

From: "Scofield, J. Trent" <Trent.Scofield@ogletreedeakins.com>
Sent: Mon, October 8, 2007 9:52 am
To: Perry Hall <wph@krmlaw.us>
Subject: RE: HMMA / Dees: Deposition Correspondence

Perry: Following up with you on this. Please advise. Thanks, Trent

-----Original Message-----

From: Perry Hall [mailto:wph@krmlaw.us]
Sent: Friday, October 05, 2007 11:13 AM
To: Scofield, J. Trent; Jeffrey Sport; Kelly, T. Scott.; Johnson, Matthew K.
Cc: David A McDonald; Vince Kilborn
Subject: Re: HMMA / Dees: Deposition Correspondence

That puts me in a tough spot. I'll say yes on the HMMA on Oct. 10 since it will be in Montgomery. But Vince really wanted to try to get the deposition in California done while he is out there. I'll try to get in touch with Vince and get back to you on that one.

Perry

----- Original Message -----

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Thanks -- Trent

Johnson, Matthew K.

From: Johnson, Matthew K.
Sent: Monday, October 15, 2007 11:43 AM
To: 'Jeffrey Sport'; 'Vince Kilborn'; 'Perry Hall'; 'David A McDonald'
Cc: Scofield, J. Trent; Kelly, T. Scott.; Johnson, Matthew K.
Subject: HMMA/Dees - Depositions for this week

Gentlemen:

Hope you are all safely back in Mobile or in the country. I am writing to follow up with you regarding the deposition of Wendy Warner, which we have tentatively scheduled for Thursday, 10/18. We are prepared to move forward, but need to finalize a few details. If the deposition is to take place, we will need to start at 9:00a.m. The deposition will not take place at the plant, but we will provide you with a location if you still want to go forward. Please let us hear from you in this regard. I should be in most of the day except to a lunch meeting in a few minutes.

Similarly, we need to reach an understanding regarding the scope of the 30(b)(6) depositions. We would be happy to provide an HMMA witness for you on Thursday to avoid your making multiple trips. However, we need to resolve the issues pertaining to the scope of the 30(b)(6) deposition that we raised in our correspondence forwarded from me by e-mail on 10/9/07. If you agree with the proposal contained therein, we will be happy to provide HMMA's 30(b)(6) witness on Thursday.

Matthew K. Johnson, Esq.

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
300 N. Main Street (29601)
PO Box 2757
Greenville, SC 29602
Tel.: (864) 271-1300
Fax: (864) 235-8806
matthew.johnson@ogletreedeakins.com

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This transmission is intended by the sender and proper recipient(s) to be confidential, intended only for the proper recipient(s) and may contain information that is privileged, attorney work product or exempt from disclosure under applicable law. If you are not the intended recipient(s), you are notified that the dissemination, distribution or copying of this message is strictly prohibited. If you receive this message in error, or are not the proper recipient(s), please notify the sender at either the e-mail address or telephone number above and delete this e-mail from your computer. Receipt by anyone other than the proper recipient(s) is not a waiver of any attorney-client, work product, or other applicable privilege. Thank you.

Johnson, Matthew K.

From: Jeffrey Sport [jeff.sport@sportlaw.us]
Sent: Monday, October 15, 2007 2:36 PM
To: Johnson, Matthew K.; Vince Kilborn; Perry Hall; David A McDonald
Cc: Scofield, J. Trent; Kelly, T. Scott.
Subject: Re: HMMA/Dees - Depositions for this week

Matt,

While we appreciate your willingness to set the date, time and place of our deposition, we are going to notice Ms. Warner's deposition for November 1, at a time and place chosen by us. At that time, you can object to whatever you like (or don't like), since there will then be something to object to.

--Jeff Sport

----- Original Message -----

From: Johnson, Matthew K.
To: Jeffrey Sport ; Vince Kilborn ; Perry Hall ; David A McDonald
Cc: Scofield, J. Trent ; Kelly, T. Scott. ; Johnson, Matthew K.
Sent: Monday, October 15, 2007 10:43 AM
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Matthew K. Johnson, Esq.

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NOTICE: Unless expressly stated to the contrary herein, (a) nothing contained in this message was intended or written to be used, can be used, nor may be relied upon or used, by any taxpayer for the purpose of avoiding penalties that could be imposed upon the taxpayer under the Internal Revenue Code of 1986, as amended; and (b) any written statement contained herein relating to any federal tax transaction or issue may not be used by any individual or entity to, recommend or support the promotion or marketing of any such transaction or issue.

This transmission is intended by the sender and proper recipient(s) to be confidential, intended only for the proper recipient(s) and may contain information that is privileged, attorney work product or exempt from disclosure under applicable law. If you are not the intended recipient(s), you are notified that the dissemination, distribution or copying of this message is strictly prohibited. If you receive this message in error, or are not the proper recipient(s), please notify the sender at either the e-mail address or telephone number above and delete this e-mail from your computer. Receipt by anyone other than the proper recipient(s) is not a waiver of any attorney-client, work product, or other applicable privilege. Thank you.

Johnson, Matthew K.

From: Johnson, Matthew K.
Sent: Monday, October 15, 2007 2:50 PM
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Cc: Scofield, J. Trent; Kelly, T. Scott.; Johnson, Matthew K.
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matthew.johnson@ogletreedeakins.com
Tel.: (864) 271-1300
Fax: (864) 235-8806

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From: Jeffrey Sport [mailto:jeff.sport@sportlaw.us]
Sent: Monday, October 15, 2007 2:35 PM
To: Johnson, Matthew K.; Vince Kilborn; Perry Hall; David A McDonald
Cc: Scofield, J. Trent; Kelly, T. Scott.
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To: Jeffrey Sport ; Vince Kilborn ; Perry Hall ; David A McDonald
Cc: Scofield, J. Trent ; Kelly, T. Scott. ; Johnson, Matthew K.
Sent: Monday, October 15, 2007 10:43 AM
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To: 'Jeffrey Sport'
Cc: Johnson, Matthew K.
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Your tone is not appreciated. We have attempted to work with you on all discovery issues and will continue to do the same. We have invited you on numerous occasions to pick up the telephone and discuss these issues.

We have spent a significant amount of time attempting to address your 30(b)(6) requests and we have not heard anything back from you on that subject. If you are simply going to change the dates and not address the subject matters, then please do so immediately so that we can state our respective positions and, if necessary, seek protection from the Court.

Finally, please provide available dates for us to take Mr. Dees' deposition, so that we may get it scheduled. The summary judgment deadline is approaching and we do not wish to be prejudiced by undue delay.

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300 N. Main Street (29601)
PO Box 2757
Greenville, SC 29602
Tel.: (864) 271-1300
Fax: (864) 235-8806
matthew.johnson@ogletreedeakins.com

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Johnson, Matthew K.

From: Johnson, Matthew K.
Sent: Wednesday, October 17, 2007 2:47 PM
To: 'Jeffrey Sport'; Vince Kilborn; Perry Hall; David A McDonald
Cc: Scofield, J. Trent; Kelly, T. Scott.; Johnson, Matthew K.
Subject: HMMA/Dees - HMA 30(b)(6) representative

Gentlemen:

We have received the amended deposition notices. We have been informed that HMA's 30(b)(6) representative is attending a previously scheduled conference from November 5th-8th and will be unavailable on the date you have chosen. Please let me know if you are willing to work with us on an alternate date the following week. If so, please let us know what day(s) work and we will do our best to accommodate. If not, please let us know as soon as possible.

We will also be getting back with you soon regarding concerns with the areas of designations and the scope of the document requests contained in your amended notices. Thanks.

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Johnson, Matthew K.

From: Jeffrey Sport [jeff.sport@sportlaw.us]
Sent: Wednesday, October 17, 2007 3:46 PM
To: Johnson, Matthew K.
Subject: Re: HMMA/Dees - HMA 30(b)(6) representative

Matt,

We are seeing if the 9th will work. Will let you know. Are you in agreement with the Warner and HMMA depo dates?

--Jeff Sport

----- Original Message -----

From: Johnson, Matthew K.
To: Johnson, Matthew K. ; Jeffrey Sport ; Vince Kilborn ; Perry Hall ; David A McDonald
Cc: Scofield, J. Trent ; Kelly, T. Scott. ; Johnson, Matthew K.
Sent: Wednesday, October 17, 2007 1:57 PM
Subject: RE: HMMA/Dees - HMA 30(b)(6) representative

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Matthew K. Johnson, Esq.

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Sent: Wednesday, October 17, 2007 2:47 PM
To: 'Jeffrey Sport'; Vince Kilborn; Perry Hall; David A McDonald
Cc: Scofield, J. Trent; Kelly, T. Scott.; Johnson, Matthew K.
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From: Johnson, Matthew K.
Sent: Wednesday, October 17, 2007 2:58 PM
To: Johnson, Matthew K.; 'Jeffrey Sport'; 'Vince Kilborn'; 'Perry Hall'; 'David A McDonald'
Cc: Scofield, J. Trent; Kelly, T. Scott.; Johnson, Matthew K.
Subject: RE: HMMA/Dees - HMA 30(b)(6) representative

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Matthew K. Johnson, Esq.

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

matthew.johnson@ogletreedeakins.com

Tel.: (864) 271-1300

Fax: (864) 235-8806

-----Original Message-----

From: Johnson, Matthew K.
Sent: Wednesday, October 17, 2007 2:47 PM
To: 'Jeffrey Sport'; Vince Kilborn; Perry Hall; David A McDonald
Cc: Scofield, J. Trent; Kelly, T. Scott.; Johnson, Matthew K.
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Johnson, Matthew K.

From: Johnson, Matthew K.
Sent: Thursday, October 18, 2007 10:53 AM
To: 'Jeffrey Sport'
Cc: Johnson, Matthew K.
Subject: RE: HMMA/Dees - HMA 30(b)(6) representative

Jeff:

I believe the date for the Warner/HMMA representative is agreeable. However, we still have concerns regarding the scope of the 30(b)(6) deposition. I will be providing you with our objections in that regard ASAP. I'd like to hear back from you after you receive them. We would like to reach an agreement and conclude the depositions without having to seek further assistance from the Court.

Also, I would again ask that you provide possible dates for your client's deposition. We understand that the Court has established the sequence of depositions and that his deposition will need to be scheduled after the first three depositions. However, we would like to get a date on the books now. Since we are looking at 11/9 for the HMA representative, any date afterward is worth considering. I would note that I have an arbitration in Florida scheduled for 11/15-11/16.

Matthew K. Johnson, Esq.

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
matthew.johnson@ogletreedeakins.com
Tel.: (864) 271-1300
Fax: (864) 235-8806

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Sent: Wednesday, October 17, 2007 3:46 PM
To: Johnson, Matthew K.
Subject: Re: HMMA/Dees - HMA 30(b)(6) representative

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--Jeff Sport

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From: Johnson, Matthew K.
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Cc: Scofield, J. Trent ; Kelly, T. Scott ; Johnson, Matthew K.
Sent: Wednesday, October 17, 2007 1:57 PM
Subject: RE: HMMA/Dees - HMA 30(b)(6) representative

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Matthew K. Johnson, Esq.

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
matthew.johnson@ogletreedeakins.com
Tel.: (864) 271-1300
Fax: (864) 235-8806

-----Original Message-----

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Sent: Wednesday, October 17, 2007 2:47 PM
To: 'Jeffrey Sport'; Vince Kilborn; Perry Hall; David A McDonald
Cc: Scofield, J. Trent; Kelly, T. Scott.; Johnson, Matthew K.
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Johnson, Matthew K.

From: Johnson, Matthew K.
Sent: Friday, October 19, 2007 1:43 PM
To: 'Jeffrey Sport'; 'Vince Kilborn'; 'Perry Hall'; 'David A McDonald'
Cc: Scofield, J. Trent; Kelly, T. Scott.; Johnson, Matthew K.
Subject: HMMA/Dees - objections/response to amended 30(b)(6) notices

Gentlemen:

Please find attached correspondence and documents related to the objections/responses of HMMA and HMA to your recent amended 30(b)(6) deposition notices. We would like to hear back from you as indicated therein. Thank you.



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KB)



KB)

Matthew K. Johnson, Esq.

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
300 N. Main Street (29601)
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OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

The Ogletree Building
300 North Main Street, Suite 500
Post Office Box 2757
Greenville, SC 29602
Telephone: 864.271.1300
Facsimile: 864.235.8806
www.ogletreedeakins.com

October 19, 2007

Via E-mail and U.S. Mail

Jeffrey R. Sport, Esq.
Vincent F. Kilborn, III, Esq.
David Allen McDonald, Esq.
W. Perry Hall, Esq.
Kilborn, Roebuck & McDonald
1810 Old Government Street
PO Box 66710
Mobile, AL 36660

Re: Dees v. Hyundai Motor Manufacturing Alabama, LLC, et al.
In the U. S. District Court of Alabama, Middle District of Alabama
Civil Action No.: 2:07-cv-00306-MHT-CSC

Gentlemen:

Please find enclosed the response and objections to your amended Rule 30(b)(6) Deposition Notices and 30(b)(5) Request for Documents dated October 16, 2007, on behalf of each of the Defendants in the above-referenced matter. We have previously voiced some of our concerns regarding the scope of the 30(b)(6) designation and for the most part our concerns apply with your amended notices. We have also identified additional concerns in these documents. Please notify us by next Wednesday, October 24, 2007, if you are in agreement with our proposed deposition testimony or please contact me so that we may confer with respect to other alternatives prior to next Wednesday. If we have not heard from you or resolved these issues by next Wednesday, we will take further action to protect our clients' rights.

We also need to finalize deposition dates, particularly in light of the looming dispositive motion deadline. We need to have these depositions completed in sufficient time to ensure our motion can be filed unless you are willing to consent to an amended scheduling order giving us more time. We have offered a number of alternate dates for the HMA 30(b)(6) representative and would like to hear from you in that regard. I understand you are considering November 9th, which we have held. We have also asked that the HMA 30(b)(6) representative hold the following week. Please let me know as soon as possible when you are available.

Similarly, we have previously requested dates for your client's deposition. Please provide me with available dates by next Wednesday, October 24, 2007. If we have not heard from you, we will need to notice the deposition for a date of our choosing. Frankly, I would prefer to select a date that works for everyone involved.

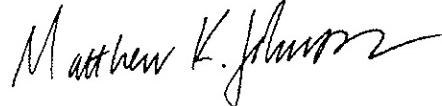
Jeffrey R. Sport, Esq., et al.
October 19, 2007
Page 2

Ogletree
Deakins

I look forward to hearing from you on these issues as soon as possible.

Very truly yours,

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.



Matthew K. Johnson
matthew.johnson@ogletreedekins.com

MKJ/
Enclosures

cc: J. Trent Scofield, Esq. (w/encls.-*via e-mail only*)
T. Scott Kelly, Esq. (w/encls.-*via e-mail only*)

5270471.1

KILBORN, ROEBUCK & McDONALD

POST OFFICE BOX 66710
MOBILE, AL 36660

Phone: 251-479-9010

Fax: 251-479-6747

FAX TRANSMISSION COVER SHEET

Date: August 31, 2007

To: Matt Johnson, Esq.
864-235-8806

Re: Dees v. Hyundai Motor Manufacturing Alabama, LLC et al.

Sender: Jeff Sport

YOU SHOULD RECEIVE 2 PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO
NOT RECEIVE ALL THE PAGES, PLEASE CALL 251-479-9010.

CONFIDENTIAL

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VINCENT F. KILBORN, III

M. LLOYD ROEBUCK

DAVID A. MCDONALD

W. PERRY HALL

JEFFREY R. SPORT

October 19, 2007

Via Fax and U.S. Mail

Matthew K. Johnson, Esquire
 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
 P.O. Box 2757
 Greenville, SC 29602

Re: *Dees v. Hyundai Motor Manufacturing Alabama, LLC, et al.*

Dear Matt:

This is in response to your e-mailed correspondence of this date regarding scheduling of depositions and your objections to our 30(b)(6) deposition topics and 30(b)(5) document requests.

As I understand it, we are confirmed for November 1 for Wendy Warner, followed by HMMA's 30(b)(6) representative. Also, we accept the date of November 9 for the HMA 30(b)(6) deposition. I will re-issue a corrected notice. Also, we can tender Mr. Dees for deposition on Tuesday, November 20. We would immediately like to follow his deposition with the five additional depositions that we have already noticed.

With regard to your objections regarding the 30(b)(6) deposition topics and 30(b)(5) document requests, we strongly disagree with each and every one of your objections. These topics are entirely relevant and, per Judge Thompson's previous order, are due to be discovered. Our topics go directly to the alter ego and mere instrumentality allegations, and the documents requested are relevant to that issue.

With respect to the document requests you do not object to (if any), please forward those documents to us as soon as possible so that we may prepare for the deposition.

With best regards, I remain

Very truly yours,

JEFFREY R. SPORT

JRS/jrs
w/ enc.

EXHIBIT C

Jerry Leon Dees, Jr., Plaintiff, vs. Hyundai Motor Manufacturing Alabama, LLC, and Hyundai Motor America, Inc., Defendants

Civil Action No. 2:07-cv-00306-MHT-CSC

**DEFENDANTS' MOTION TO EXTEND DEADLINES
AND TO AMEND SCHEDULING ORDER**

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

JERRY LEON DEES, JR.,)
)
Plaintiff,)
)
v.) CIVIL ACTION NO.
)
HYUNDIA MOTOR MANUFACTURING) 2:07cv306-MHT-CSC
ALABAMA, LLC, and HYUNDAI)
MOTOR AMERICA, INC.,)
)
Defendants.)

AMENDED SCHEDULING ORDER¹

Please read this order carefully. These deadlines and responsibilities may not be changed without leave of court. All parties are expected to comply with each and every provision of this order in a timely manner, and extensions will be granted only in extraordinary and unforeseeable circumstances. The parties are also expected to comply with the Middle District's Local Rules and the Middle District's Guidelines to Civil Discovery Practice, both of which can be found at <http://www.almd.uscourts.gov/>.

Under Rule 16, Federal Rules of Civil Procedure, as amended, the court is required to set a schedule for discovery and the filing of motions. Accordingly, it is ORDERED as follows:

¹ Changes are denoted by ***bold, italicized*** font.

SECTION 1. A pretrial conference is scheduled for the 20th day of February, 2008. This cause is set for trial during the term of court commencing on the 31st day of March, 2008.

SECTION 2. Dispositive motions, i.e., motions to dismiss or motions for summary judgment, shall be filed no later than **December 14, 2007**. A brief and all supporting evidence shall be filed with any such motion. In all briefs filed by any party relating to the motion, the discussion of the evidence in the brief must be accompanied by a specific reference, by page and line, to where the evidence can be found in a supporting deposition or document. Failure to make such specific reference will result in the evidence not being considered by the court.

SECTION 3. No later than 21 days after the dispositive motion deadline, counsel for all parties shall conduct a face-to-face settlement conference at which counsel shall engage in good faith settlement negotiations. If settlement cannot be reached, counsel shall also discuss whether mediation will assist the parties in reaching settlement. Not more than FIVE (5) DAYS after this conference, counsel for the plaintiff shall file a pleading titled "Notice Concerning Settlement Conference and Mediation". This pleading shall indicate whether settlement was reached and, if not, whether the parties believe mediation will assist them in resolving this case short of trial.

SECTION 4. Motions to amend the pleadings and to add parties shall be filed by the plaintiff(s) on or before August 31, 2007, and by the defendant(s) on or before October 1, 2007.

SECTION 5. Motions for class certification shall be filed on or before August 31, 2007. A brief addressing the factors enumerated in Rule 23(a), (b) and (g) of

the Federal Rules of Civil Procedure shall be filed with any such motion.

SECTION 6. The failure to file a response to any motion -- either dispositive or non-dispositive -- within the time allowed by the court shall indicate that there is no opposition to the motion.

SECTION 7. All discovery shall be completed on or before November 30, 2007, except that, as to any witnesses whose names are not revealed until the last day allowed under SECTION 9 or whose names are not revealed with sufficient time for the other parties to take a deposition prior to the pretrial conference, the opposing party shall have the deadline in this paragraph extended to allow for deposing such witnesses.

SECTION 8. The parties shall disclose to each other the identity of ANY person who may be used at trial to present evidence under Rules 701, 702, 703, or 705 of the Federal Rules of Evidence, and provide the reports of retained experts or witnesses whose duties as an employee of the party regularly involved giving expert testimony, required by Rule 26(a)(2) of the Federal Rules of Civil Procedure, as follows:

From the plaintiff(s) on or before October 1, 2007. From the defendant(s) on or before October 31, 2007.

The parties shall comply fully with all requirements of Rule 26(a)(2) in regard to disclosure of expert testimony.

SECTION 9. FORTY (40) DAYS BEFORE TRIAL, each party shall, pursuant to the provisions of Rule 26(a)(3) of the Federal Rules of Civil Procedure, file a list of the names, addresses, and telephone numbers of all witnesses, except witnesses to be used solely for impeachment purposes, separately identifying those whom

the party expects to present and those whom the party may call if the need arises. The witness list should include the names of any witnesses required to be disclosed under Section 8. Unless specifically agreed between the parties or allowed by the court for good cause shown, the parties shall be precluded from calling any witness not so identified.

SECTION 10. FORTY (40) DAYS BEFORE TRIAL, the parties shall, pursuant to the provisions of Rule 26(a)(3) of the Federal Rules of Civil Procedure, file deposition designations that the parties expect to use at trial. Adverse parties shall within one week thereafter file deposition designations expected to be used in response, and a party shall within three days of the designation of such responsive parts file the designation of any part that is desired as a rebuttal thereto. Unless specifically agreed between the parties or allowed by the court for good cause shown, the parties shall be precluded from using any part of a deposition or other document not so listed, with the exception of parts of depositions or documents to be used solely for the purpose of impeachment. Except to the extent written objections are filed 14 days prior to the trial date, each party shall be deemed to have agreed that one of the conditions for admissibility under Rule 32 of the Federal Rules of Civil Procedure is satisfied with respect to any such deposition and that there is no objection to the testimony so designated. Objections shall state with particularity the portions objected to, and the objecting party shall attach a copy of the portions to which the objections apply.

SECTION 11. FORTY (40) DAYS BEFORE TRIAL, the parties shall, pursuant to the provisions of Rule 26(a)(3) of the Federal Rules of Civil Procedure, file exhibit lists and furnish opposing counsel for copying and inspection all exhibits and tangible evidence to be used at the trial. Proffering counsel

shall have such evidence marked for identification prior to trial. Unless specifically agreed between the parties or allowed by the court for good cause shown, the parties shall be precluded from offering such evidence not so furnished and identified, with the exception of evidence to be used solely for the purpose of impeachment. Except to the extent written objections are filed, the evidence shall be deemed genuine and admissible in evidence. Objections shall be filed 14 days prior to the trial date, and shall set forth the grounds and legal authorities. The offering party shall file a written response to the objections no later than 7 days prior to trial and shall include a premarked copy of the evidence at issue.

SECTION 12. Except to the extent of any conflict with the deadlines set out herein, the discovery plan contained in the report of parties' planning meeting (Doc. No. 18) is adopted and incorporated herein.

SECTION 13: If a jury trial: The parties shall file any requested voir dire questions, motions in limine fully briefed, and any proposed jury instructions, together with citations of law thereon, on or before 14 days prior to the trial date unless said time is shortened by the court on motion of either party. Trial counsel are directed to review the jury questionnaire used in this court and to avoid any duplication of matters addressed therein in their voir dire questions. The jury questionnaire is available on the court's website at <http://www.almd.uscourts.gov/juryinfo.htm>.

SECTION 14. In cases involving jury trials, the term "trial date" as used in the foregoing deadlines shall mean the date set for jury selection.

SECTION 15. GENERAL PROVISIONS:

(A) All briefs on any matter before the court must

be formal in format and filed with the court. The court does not accept "letter briefs" or "letter reports."

(B) A request or motion for extension of a deadline in any court order (i) must be in writing; (ii) must indicate that movant has, in a timely manner, previously contacted counsel for all other parties; and (iii), based on that contact, must state whether counsel for all other parties agree to or oppose the extension request or motion. A request or motion that fails to meet this requirement will be denied outright, unless the movant offers a credible explanation in the request or motion why this requirement has not been met. Absent stated unforeseen and unavoidable circumstances beyond the control of the movant, oral extension requests and motions are not allowed, and "eleventh hour" extension requests and motions will be denied outright.

(C) The proposed order that a party desires the court to enter should be submitted to the court in both (i) an Adobe Acrobat PDF format attachment to the motion and (ii) by transmitting an electronic copy of the proposed order to the court as an attachment to an email message sent to <propord_thompson@almd.uscourts.gov>. For these purposes, the electronic copy should be in WordPerfect or Word format and not in Adobe Acrobat PDF format.

(D) If any party has an objection to these deadlines, the party should inform the court within 14 days from the date of this order; otherwise, the court will assume that the deadlines are agreeable to all parties. Unless this order is modified by subsequent order of the court, the provisions hereinabove set out are binding on the parties.

DONE, this _____ day of _____, 2007.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE

EXHIBIT D

*Jerry Leon Dees, Jr., Plaintiff, vs. Hyundai Motor Manufacturing
Alabama, LLC, and Hyundai Motor America, Inc., Defendants*

Civil Action No. 2:07-cv-00306-MHT-CSC

**DEFENDANTS' MOTION TO EXTEND DEADLINES
AND TO AMEND SCHEDULING ORDER**

Johnson, Matthew K.

From: Johnson, Matthew K.
Sent: Monday, October 22, 2007 2:16 PM
To: 'Jeffrey Sport'; Vince Kilborn; Perry Hall; David A McDonald
Cc: Scofield, J. Trent; Kelly, T. Scott.
Subject: RE: Depositions

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I am not sure what you are getting back to me on specifically, but I appreciate it. I hope it is with respect to everything we need to get done -- deposition scheduling, scope of 30(b)(6) depositions, and an amended scheduling order.

I have been preparing a motion to request additional time to meet relevant deadline since I did not hear anything from you on the scheduling order issue. Please let me know something on that so that we can file the motion tomorrow, if necessary. I would simply like to move the dispositive motion deadline back to 12/14. I do not believe this would require any other dates to be moved. We plan to file the motion tomorrow unless we get something agreed to early morning. Thanks.

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